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who changes the position of an obstruction without removing it from the highway? To hold that he must under all circumstances remove it to a place where it would no longer be dangerous, might often result in casting upon an innocent party responsibility for a danger created solely by another. It is conceived, however, that in no case should he be allowed to increase an existing danger or to create a new one. The fact that he has been inconvenienced can furnish no justification for his deliberately endangering others.⁵ Thus he would be liable if he should move the obstruction to a place where the travel is heavier, or where a different class of persons would be affected. Likewise, if he should move it a considerable distance, although without increasing the danger or imperiling a different class of persons, he would be liable, for the situation would be so materially altered that he could fairly be said to have created a new danger. Moreover, it is believed that he would be responsible if he should replace the obstruction in its original position; for, having once removed the danger from that place, he would be creating it there anew. In other words, while exercising his lawful right of removal, he should be considered under a duty to do no act which an ordinarily prudent man under the same or similar circumstances would foresee as likely to increase an existing danger or to create a new one. Whether in any case he has violated this duty would seem to be a question of fact. The Supreme Court of Rhode Island, however, has recently ruled as matter of law that a street railway company which removed an obstruction from its track was not liable to a person who, while in the exercise of due care, subsequently came in contact with it. *Howard v. Union Ry. Co.*, 57 Atl. Rep. 867 (R. I.).

JURISDICTION OVER CRIMES COMMITTED ON A VESSEL OF ONE COUNTRY FROM THAT OF ANOTHER. — Discussing the recent killing of English fishermen from a Russian vessel in Doggerbank, an editorial in the *Justice of the Peace* concludes that English courts, following *Reg. v. Keyn*,¹ would not take jurisdiction. *The North Sea Outrage*, 68 Just. P. 529 (Nov. 5, 1904). Since the *locus* of a crime determines its jurisdiction, the primary question is really this: was the homicide committed on the British sloop or on the Russian vessel?

Homicide is the unlawful application of force to the body resulting in death, and the doctrine is general that the crime is committed where the force operates. This constituted the breach of the king's peace, which first gave the king's courts jurisdiction.² In the large class of cases, in this country, which involve shooting from one state into another, the overwhelming authority is that the latter controls the venue.³ This precise question arose in *Reg. v. Coombes*,⁴ where the master of the king's sloop was fired on from the shore, and it was held that, since the offense took place where the bullet struck, the defendant was properly tried by the Admiralty. And where a shot from an American vessel killed a native on board a vessel lying in the Society Islands, our court, deeming the act to have been com-

⁵ Cf. *Scott v. Shepherd*, 2 Black, W. 892; see also Clerk & Lindsell Torts, 2d ed. 130.

¹ L. R. 2 Ex. Div. 63, 13 Cox C. C. 403.

² 2 Poll. & Mait., Hist. Eng. Law, 2d ed., 463.

³ *State v. Hall*, 114 N. C. 909.

⁴ 1 Leach 432.

mitted on the foreign ship, disclaimed jurisdiction.⁵ But in *Reg. v. Keyn*⁶ the majority of the court refused to hold a German captain through whose negligent navigation one on board an English vessel was killed. The court distinguished between murder and manslaughter, holding that, since in the latter no intention accompanies the force, the crime occurs at the place of negligence. But just as the intention continues with the force to make the blow murder, so the negligence persists to constitute manslaughter. What is punished is not the negligence but the resulting homicide, and in both cases that takes place where the force strikes the body.

Every vessel while on the high seas is subject to the exclusive jurisdiction of the nation whose flag she flies.⁷ A foreigner on a British ship is punishable under English law;⁸ and, in this country, a murder committed by a foreigner on an American vessel, even within Canadian waters, gives the United States jurisdiction.⁹ Therefore, when the *locus* of a crime is shown to be an English vessel, the jurisdiction of the English courts would seem to be complete. The fact that the culprits were acting from a public vessel rather than a private one is immaterial, for the crews of both must respect the municipal law prevailing in a foreign jurisdiction.¹⁰ If the culprits, then, are found in English territory, there ought to be no difficulty. Extradition, however, would hardly be granted, even if it should be demanded, and redress would, probably, have to be sought through diplomatic channels. The extradition treaty between England and Russia does not cover such a contingency.¹¹ England has acceded to extradition demands for one of its citizens charged with practicing false pretenses on German merchants, though never present in Germany;¹² but the decision has been criticised, and would, probably, not be followed.¹³ To constitute one a fugitive criminal, presence in the demanding state and subsequent flight are deemed necessary.¹⁴

RIGHT OF RECOUPMENT FOR IMPROVEMENTS TO CONVERTED PROPERTY. — The usual rule in trover permits the owner to treat any moment at which wrongful dominion is being exercised over his property as the moment of conversion, and to recover in damages its full value at that time. Where, however, one acting under a *bona fide* mistake has improved the converted property by the expenditure of labor and materials, the decisions clearly trend toward making the value at the time of the original taking the basis of recovery.¹ This relaxation of the general principle, which seems to make the rule of damages in trover depend upon the moral attitude of the converter, is explained in a case lately decided by a federal circuit court in New

⁵ *United States v. Davis*, 2 Sumn. (U. S. C. C.) 482.

⁶ *Supra*.

⁷ *Crapo v. Kelly*, 16 Wall. (U. S.) 610; *Reg. v. Anderson*, L. R. 1 C. C. 161.

⁸ *Rex v. Sattler*, 7 Cox, C. C. 431.

⁹ *United States v. Rodgers*, 150 U. S. 249; recognizing the prevailing doctrine of concurrent jurisdiction of the local country, and that of the ship's flag in such a case. See *Reg. v. Anderson*, *supra*.

¹⁰ See Hall, Int. Law, 5th ed., 195.

¹¹ See Clarke, Extradition, 4th ed., ccclxvii.

¹² *Reg. v. Nillins*, 53 L. J. M. C. 157.

¹³ Clarke, *supra*, 262.

¹⁴ *State v. Hall*, 115 N. C. 811; *Jones, etc. v. Leonard*, 50 Ia. 106; *In re, Mohr*, 73 Ala. 503.

¹ *Winchester v. Craig*, 33 Mich. 205; *Forsyth v. Wells*, 41 Pa. St. 291.